

# XIV. Administrative procedure and litigation – deadlines and hearings

---

XIV.A. Background	3
XIV.B. Effects on the various deadlines and hearings	3
XIV.C. Concluding comments	6

---

M

—

L



## Glossary

---

### CPA

Code of Administrative Procedure

---

### CPC

Code of Civil Procedure

---

### CPTA

Administrative Courts Code of Procedure

---

### Law no. 44/86

Law no. 44/86 of 30 September (on the state of siege and the state of emergency)

---

### Decree no. 2-A/2020

Decree no. 2-A/2020 of 20 March (Implementing the state of emergency declared by Presidential Decree no. 14-A/2020 of 18 March)

---

### Decree no. 2-B/2020

Decree 2-B/2020 of 2 April (Implementing the renewed declaration of a state of emergency originally declared by [Presidential Decree no. 17-A/2020](#) of 2 April)

---

### Decree-Law no. 10-A/2020

Decree-Law no. 10-A/2020 of 13 March (Establishing exceptional and temporary measures regarding the new Coronavirus - COVID-19 epidemic), as amended by Decree-Law no. 12-A/2020 of 6 April

---

### Law no. 1-A/2020

Law 1-A/2020 of 19 March (Exceptional and temporary measures in response to the new Coronavirus SARS-CoV-2 and COVID-19 pandemic), as amended by Law no. 4-A/2020

---

### Law no. 4-A/2020

Law no. 4-A/2020 of 6 April (First amendment to Law no. 1-A/2020 and second amendment to Decree-Law no. 10-A/2020)

---

### Law no. 4-B/2020

Law no. 4-B/2020 of 6 April (Exceptional regime concerning compliance with measures provided for in Municipal Adjustment Programmes and concerning the indebtedness of local authorities, within the scope of the COVID-19 pandemic, and second amendment to Law no. 1-A/2020)

---

### Law no. 44/86

Law no. 44/86 of 30 September (on the state of siege and the state of emergency)

---

### Law no. 67/2013

Law no. 67/2013 of 28 August (Framework law on independent administrative authorities with private, public and cooperative sector economic regulatory functions)

---

### SITAF

Administrative and Tax Courts Information System

## XIV. ADMINISTRATIVE PROCEDURE AND LITIGATION – DEADLINES AND HEARINGS

### XIV.A. Background

In the scope of the measures to combat the COVID-19 pandemic adopted by the Portuguese Government and Parliament, [Decree-Law no. 10-A/2020](#), [Law no. 1-A/2020](#) and [Decree no. 2-A/2020](#) were approved. These laws contain a range of provisions on conducting hearings, the suspension of terms and rules for statutes of limitation and expiry of deadlines within the scope of procedures and proceedings, including administrative ones.

The provisions set forth in Law no. 1-A/2020 were subsequently amended by Law no. 4-A/2020 and by Law no. 4-B/2020, with the latter constituting a republication of Law no. 1-A/2020. Accordingly, this text reflects the solutions set forth in the wording introduced by these amendments.

### XIV.B. Effects on the various deadlines and hearings

#### DEADLINES IN NON-URGENT CASES AND PROCEEDINGS THAT TAKE PLACE AT ADMINISTRATIVE AND TAX COURTS

While the exceptional situation persists, all time limits for all procedural acts in the scope of non-urgent cases and proceedings that take place at administrative and tax courts are suspended (Article 7(1) of Law no. 1-A/2020).

The suspension of these time limits does not preclude:

- The processing of cases and the performance of acts when all parties agree that suitable conditions exist for performing them via computer platforms that enable their completion electronically or via suitable remote communication methods, namely teleconference, video call or equivalent means.

Provided the parties agree, without prejudice to the rules applicable to performing acts and in-person procedural acts and hearings, the cases will continue to be processed normally;

- A final decision can be handed down in cases in relation to which the court and other authorities do not consider it necessary to take further diligences.

The parties' agreement to the continued processing of the case is not in question in this subparagraph. In other words, the rules of the CPTA concerning the handing down of final decisions continue to be applicable.

#### STATUTES OF LIMITATIONS AND EXPIRY TERMS RELATING TO ALL TYPES OF CASES AND PROCEDURES

These terms are suspended until the exceptional situation comes to an end. This suspension will also take precedence over any compulsory limitations or expiry time limits laid down in other regimes (Article 7(3) and (4) of Law no. 1-A/2020), without prejudice to the non-suspension of time limits in urgent cases, which is explained further below (Article 7(7) of Law no. 1-A/2020).

It appears that expiry deadlines expressly provided for, and associated with the non-exercise of rights granted by licences and administrative contracts are covered by this suspension (e.g. deadline for requesting an inspection or similar act on which the commencement of activity subject to a time limit depends).

It should be noted that, except for the application of general rules relating to limitations and expiry, the suspension will not cover substantive limitations and expiry deadlines that do not involve the performance of an act in a case or in proceedings.

#### **DEADLINES FOR BRINGING ACTIONS**

The expiry deadlines for bringing actions are suspended (Article 7(3) of Law no. 1-A/2020).

However, although the wording of the law is not necessarily the clearest or most appropriate, in our opinion the deadlines for bringing pre-contract litigation actions (Articles 100 *et seq.* of the CPTA) and other urgent administrative actions are not suspended.

With regard to pre-contract litigation actions in particular, a different understanding would contradict the regime introduced by Law no. 4-A/2020, which manifestly sought to continue the processing of the administration's contractual activity.

#### **DEADLINES IN URGENT CASES**

Urgent cases continue to be processed, without any suspension or interruption of deadlines, acts or hearings (Article 7(7) and 7-A(1), both of Law no. 1-A/2020), whereby:

- In hearings that require the parties to be physically present, or for their representatives or other case participants to be present, any procedural acts or proceedings will be conducted via suitable remote communication means, specifically teleconference, video call or equivalent;
- Where it is not possible to conduct hearings that require the physical presence of the parties, their representatives or other case participants, in accordance with the preceding paragraph, and the life, physical integrity, mental health, freedom or immediate subsistence of the parties is at stake, the hearing may be conducted

in person provided it does not entail the presence of more persons than stipulated in the health authorities' recommendations, and provided this is in line with the guidelines laid down by the competent high councils;

- Where it is not possible or appropriate to conduct acts or hearings in accordance with the provisions of the above paragraph, the suspension regime provided for in Article 7(1) of the Law no. 1-A/2020 will also be applicable to these cases.

In accordance with Article 7(8) of Law no. 1-A/2020, the following will also be considered urgent, regardless of their classification as urgent within the scope of the CPTA, for the purposes of Article 7(7) of Law no. 1-A/2020:

- Cases and proceedings defending rights, freedoms and guarantees harmed or which may be harmed by any unconstitutional or illegal measures referred to in Article 6 of Law no. 44/86;
- The urgent service provided for in Article 53(1) of Decree-Law no. 49/2014;
- Cases, proceedings, procedural acts and hearings that prove necessary to prevent irreparable harm.

This extension introduced by the provisions of Article 7(8) of Law no. 1-A/2020 does not amend the other general procedural rules applicable to processing those cases.

#### **ADMINISTRATIVE PROCEEDINGS**

There is no rule that stipulates the suspension of all administrative proceedings.

Generally speaking, only deadlines for conducting acts within the scope of administrative offenses, enforcement and disciplinary proceedings, including acts of judicial challenge of the final or interim decisions, that take place at direct, indirect, regional and government administration

departments and other administrative authorities, namely independent administrative authorities including the Portuguese Competition Authority, the Insurance and Pension Funds Supervisory Authority, the Bank of Portugal and the Portuguese Securities Market Commission, and those that take place at professional public associations are suspended (Article 7(9)(b) of Law no. 1-A/2020).

It should be assumed that the law sought to include all authorities covered by the framework law on regulatory authorities (consolidated version of [Law no. 67/2013](#)).

The regime provided for in paragraphs 1 to 8 of Article 7 of Law no. 1-A/2020 shall be applicable, *mutatis mutandis*, to these administrative offenses, enforcement and disciplinary proceedings.

#### **ADMINISTRATIVE DEADLINES**

Administrative deadlines for acts performed by the private parties are suspended (Article 7(1) and (9)(c) of Law no. 1-A/2020).

Accordingly, the deadlines for pronouncement in preliminary hearings and public inquiries and other acts that must be performed by the private parties in the scope of administrative proceedings, are suspended.

The following deadlines for tacit approval of authorisations and licences are also suspended:

- Deadlines whose lapse entails tacit approval by the administration of authorisations and licences required by the private parties (Article 17(1) of Decree-Law no. 10-A/2020);
- Deadline whose lapse entails tacit approval by the administration of authorisations and licences, even if not required by the private parties, in the scope of evaluating environmental impact (Article 17(2) of Decree-Law no. 10-A/2020).

Generally speaking, and to the extent admissible, namely in accordance with the CPA, the possibility of the administration extending or suspending other deadlines should not be ruled out.

Deadlines in public procurement procedures are not suspended – see [Chapter XV](#) on Public Procurement.

#### **DEADLINES FOR CONDUCTING PROCEDURAL ACTS IN PERSON – CLOSURE OF FACILITIES OR SUSPENSION OF IN-PERSON SERVICE**

In the event of closure of facilities, or the suspension of in-person service at facilities where procedural acts and hearings should be conducted in the scope of procedures and proceedings that take place at judicial courts, administrative and tax courts, arbitration courts, the Public Prosecution Office, magistrates' courts, alternative dispute resolution bodies, notarial firms, registrars, administrative bodies or departments (in the scope of administrative proceedings, their respective acts and hearings and in the scope of proceedings, acts and hearings governed by the CPA), the deadlines for performing the acts in question will be suspended as from the day of closure or suspension of the service (Article 15(1) of Decree-Law no. 10-A/2020).

The suspension stipulated above is also applicable to citizens, the subjects of proceedings, parties, their representatives or agents residing or working in the municipalities in which the closure of facilities or the suspension of in-person service has occurred, even if such procedural acts and hearings or proceedings are to be conducted in a different municipality. This is what appears to result from Article 15(3) of Decree-Law no. 10-A/2020, since it seems that the reference made to “the provisions of the foregoing article” may be an error, and should be interpreted as a reference to “the provisions of this article”.

In our opinion, the suspension referred to above exclusively concerns deadlines for performing acts in person. Accordingly, other deadlines for which there are alternative means, via post, fax or electronic data transmission are not suspended, in accordance with Article 104(1) of the CPA.

The suspension laid down will end with the declaration by the public authority of the facilities' re-opening (Article 15(2) of Decree-Law no. 10-A/2020).

The provisions of Article 15 of Decree-Law no. 10-A/2020 will have autonomous relevance as regards the provisions of Article 7 of Law no. 1-A/2020, to the extent that the expiry of their respective terms may take place at different times.

#### **JUSTIFIED IMPEDIMENT, JUSTIFICATION OF ABSENCES AND POSTPONEMENT OF HEARINGS AND PROCEEDINGS**

The declaration by the health authority attesting to the need for a period of isolation due to any risk of infection with the COVID-19 pandemic is considered grounds for claiming a justified impediment to conducting procedural acts that should normally be conducted in person in connection with cases, proceedings, acts and hearings that take place at judicial courts, administrative and tax courts, arbitration courts, the Public Prosecution Office, magistrates' courts, alternative dispute resolution bodies, notarial firms, registrars, administrative bodies or departments in the scope of administrative proceedings, their respective acts and hearings and in the scope of proceedings, acts and hearings governed by the CPA (Article 14 of Decree-Law no. 10-A/2020).

#### **LICENCES AND AUTHORISATIONS**

Licences, authorisations and other types of administrative acts with a specific deadline will remain in force, irrespective of the lapse of that deadline, and solely in so far as the deadline in question has lapsed (Article 30 of Decree no. 2-A/2020).

#### **ACCEPTABILITY OF EXPIRED DOCUMENTS**

For all legal purposes, documents submitted that are eligible for renewal, and whose validity has expired as from 09-03-2020 or in the two-week period immediately preceding or following this date, will continue to be accepted by the public authorities (Article 16(2) and Article 37 of Decree-Law no. 10-A/2020).

It is not clear whether the acceptability referred to above includes documents whose renewal may be obtained through electronic platforms or the websites of the respective public services.

#### **XIV.C. Concluding comments**

- The provisions of Law no. 1-A/2020, as amended by Law no. 4-A/2020, shall take effect on 9 March 2020, with the exception of the rules applicable to urgent cases, which shall only take effect on 7 April 2020 – the date of entry into force of Law no. 4-A/2020 (Article 6(2) of Law no. 4-A/2020);
- The end of the regime laid down in Article 7 Law no. 1-A/2020 will be stipulated by decree-law in which the end of the exceptional situation is declared (Article 7(2) of Law no. 1-A/2020);
- The suspension of deadlines referred to above requires particular care in calculating the ends of these time limits when the suspension is eventually lifted, following termination of the regimes in question. In this context, and where the deadlines are set in months, it may be necessary to convert them into days;
- With regard solely to the regulations and administrative acts implementing the decrees declaring the state of emergency (Decree no. 2-A/2020 and Decree no. 2-B/2020), these are effective via simple notification to the recipient, via electronic or other means, and other applicable formalities are waived. To this end, notification to recipients will be deemed to have been made via the publication of regulations or acts on the website of the authorities competent to approve the regulations or perform the acts.

---

## AUTHORS



**Mara Rupia Lopes**  
Associate



**Nuno Peres Alves**  
Partner

# MORAIS LEITÃO GALVÃO TELES, SOARES DA SILVA & ASSOCIADOS

## Supporting clients, anywhere, anytime.



### MORAIS LEITÃO, GALVÃO TELES, SOARES DA SILVA & ASSOCIADOS

#### LISBOA

Rua Castilho, 165  
1070-050 Lisboa  
T +351 213 817 400  
F +351 213 817 499  
mlgtslisboa@mlgts.pt

#### PORTO

Avenida da Boavista, 3265 – 4.2  
Edifício Oceanvs  
4100-137 Porto  
T +351 226 166 950 - 226 052 380  
F +351 226 163 810 - 226 052 399  
mlgtsporto@mlgts.pt

#### FUNCHAL

Av. Arriaga, n.º 73, 1.º, Sala 113  
Edifício Marina Club  
9000-060 Funchal  
T +351 291 200 040  
F +351 291 200 049  
mlgtsmadeira@mlgts.pt

[mlgts.pt](http://mlgts.pt)

#### ALC ADVOCADOS

#### LUANDA

Masuíka Office Plaza  
Edifício MKO A, Piso 5, Escritório A/B  
Talatona, Município de Belas  
Luanda – Angola  
T +244 926 877 476/8/9  
T +244 926 877 481  
geral@alcadvogados.com

[alcadvogados.com](http://alcadvogados.com)

#### HRA ADVOCADOS

#### MAPUTO

Avenida Marginal, 141, Torres Rani  
Torre de Escritórios, 8.º piso  
Maputo – Moçambique  
T +258 21 344000  
F +258 21 344099  
geral@hrlegalcircle.com

[hrlegalcircle.com](http://hrlegalcircle.com)

#### MdME LAWYERS

#### MACAU

Avenida da Praia Grande, 409  
China Law Building  
21/F and 23/F A-B, Macau  
T +853 2833 3332  
F +853 2833 3331  
mdme@mdme.com.mo

#### HONG KONG

Unit 2503 B  
25F Golden Centre  
188 Des Voeux Road  
Central, Hong Kong  
T +852 3619 1180  
F +853 2833 3331  
mdme@mdme.com.mo

Foreign Law Firm

[mdme.com.mo](http://mdme.com.mo)